## EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2

**DOCKET NO.:** 2008-0494-MSW-E **TCEQ ID:** RN105211775 **CASE NO.:** 35619

RESPONDENT NAME: R. J. Whitfield

ORDER TYPE:	* .					
X 1660 AGREED ORDER	FINDINGS AGREED ORDER	FINDINGS ORDER FOLLOWING SOAH HEARING				
FINDINGS DEFAULT ORDER	SHUTDOWN ORDER	IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER				
AMENDED ORDER	EMERGENCY ORDER					
CASE TYPE:						
AIR	MULTI-MEDIA (check all that apply)	INDUSTRIAL AND HAZARDOUS WASTE				
PUBLIC WATER SUPPLY	PETROLEUM STORAGE TANKS	OCCUPATIONAL CERTIFICATION				
WATER QUALITY	SEWAGE SLUDGE	UNDERGROUND INJECTION CONTROL				
X_MUNICIPAL SOLID WASTE	RADIOACTIVE WASTE	DRY CLEANER REGISTRATION				
Rosebud, Falls County  TYPE OF OPERATION: Unauthorized di  SMALL BUSINESS:X_Yes	_ No omplaint was received February 27, 2007, concernin					
INTERESTED PARTIES: A complaint wa Agenda.	s received, but the complainant has not expressed a	desire to protest this action or to speak at				
COMMENTS RECEIVED: The Texas Reg	rister comment period expired on July 21, 2008. No	comments were received.				
COMMENTS RECEIVED: The Texas Register comment period expired on July 21, 2008. No comments were received.  CONTACTS AND MAILING LIST:  TCEQ Attorney/SEP Coordinator: None  TCEQ Enforcement Coordinator: Mr. Michael Meyer, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-4492; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171  Respondent: Mr. R. J. Whitfield, Owner, P.O. Box 338, Rosebud, Texas 76570  Respondent's Attorney: Not represented by counsel on this enforcement matter						

#### VIOLATION SUMMARY CHART: VIOLATION INFORMATION PENALTY CONSIDERATIONS CORRECTIVE ACTIONS TAKEN/REQUIRED Type of Investigation: Total Assessed: \$3,775 Ordering Provisions: X Complaint Routine Total Deferred: \$755 The Order will require the Respondent to: X Enforcement Follow-up X Expedited Settlement X Records Review a. Immediately upon the effective date of this Agreed Order, cease accepting and/or \_\_Financial Inability to Pay Date(s) of Complaints Relating to this disposing of any additional waste at the Case: February 27, 2007 SEP Conditional Offset: \$0 Site: Date of Investigation Relating to this Total Paid to General Revenue: \$3,020 b. Within 15 days after the effective date Case: January 30, 2008 of this Agreed Order, obtain a scrap tire Site Compliance History Classification storage registration or reduce the number Date of NOV/NOE Relating to this Case: \_\_\_ High \_X Average Poor of tires being stored on-site to 500 or less February 15, 2008 (NOE) on the ground and/or 2,000 tires in Person Compliance History Classification enclosed and lockable containers: Background Facts: This record review \_\_\_ High \_X\_ Average \_\_\_ Poor was conducted to determine if appropriate c. Within 60 days after the effective date of corrective action has been taken by the Major Source: X Yes No this Agreed Order, ensure that all Respondent to resolve violations unauthorized waste at the Site is removed documented during the previous complaint Major Source: \_\_\_ Yes \_X No and properly disposed of at an authorized investigation. facility; and Applicable Penalty Policy: September 2002 WASTE d. Within 75 days after the effective date of this Agreed Order, submit written 1) Failure to dispose of municipal solid certification and include detailed waste at an authorized facility. supporting documentation including Specifically, approximately 350 cubic photographs, receipts, and/or other records yards of municipal solid waste, including to demonstrate compliance with Ordering farm equipment, approximately 50 Provisions a. through c. vehicles, construction debris, and assorted scrap metals were disposed of at the Site [30 TEX. ADMIN. CODE § 330.15(c)]. 2) Failure to obtain a scrap tire storage registration for storing more than 500 scrap or used tires on the ground. Specifically, approximately 1,000 tires were being stored on the ground at the Site [30 Tex. Admin. Code § 328.60(a)].

Additional ID No(s).: N/A

	•	Calculatio	n Works	heet (P	•	
Policy Revision 2 (Septe	mber 2002)				PCW Revision Fe	bruary 29, 2008
DATES Assigned	19-Feb-2008					<del></del>
		ng 25-Mar-2008	EPA Due			
RESPONDENT/FACILITY I						A Sale
Reg. Ent. Ref. No. F						-
Facility/Site Region 9			Major/N	Minor Source	Minor	
CASE INFORMATION				. 767.3949		
Enf./Case ID No. 3			No.	of Violations		
	2008-0494-MSW-E		F	Order Type		_
Media Program(s) N Multi-Media	Municipal Solid Waste		Enr.	Coordinator FC's Team	Enforcement Team 7	
Admin. Penalty \$ Li	mit Minimum \$0	Maximum	\$10,000			
	Pan	alty Calcula	ation Sect	tion	·	
TOTAL DACE DENAL					Subtatal 4	\$1,000
TOTAL BASE PENALT	r (Sum of violation	i base pename	<b>:S)</b>		Subtotal 1	\$1,000
ADJUSTMENTS (+/-) T	TO SUBTOTAL 1  ed by multiplying the Total Base	Penalty (Subtotal 1) by	the indicated per	centage		
Compliance Histor			Enhancement		otals 2, 3, & 7	\$100
	· · · · · · · · · · · · · · · · · · ·	in the second se	**************************************			
Notes	There are two NOVs	s for same or simil	ar violations at	the Site.		
Culpability	No No	0%	Enhancement		Subtotal 4	\$0
	The Decreador	t does not meet the	o culpability cri	toria		
Notes	The Respondent		- Culpability Cit	teria.		
Good Faith Effort		0% PRP/Settlement Offer	Reduction		Subtotal 5	\$0
Extraordinary						
Ordinary	X (mark with x					
Notes	The Respondent	t does not meet the	e good faith cri	teria.		
	Total EB Amounts \$370 ost of Compliance \$9,450		Enhancement* If at the Total EB \$	Amount	Subtotal 6	\$0
SUM OF SUBTOTALS	1-7			•	inal Subtotal	\$1,100
OTHER FACTORS AS Reduces or enhances the Final Sul			0%		Adjustment	\$0
Notes						
L	And the second s			Final Per	nalty Amount	\$1,100
STATUTORY LIMIT AL	DJUSTMENT			Final Asse	ssed Penalty	\$1,100
DEFERRAL			20%	Reduction	Adjustment	-\$220
Reduces the Final Assessed Penal	ty by the indicted percentage.	(Enter number only; e.g	g. 20 for 20% redu	ction.)	 1 · .	
Notes	Deferral o	ffered for expedite	d settlement.			
_		The second second second second	and the second	oval area in systematics in the	Lance Burgaline in the Control of th	
PAYABLE PENALTY						\$880

Screening Date 25-Mar-2008

Docket No. 2008-0494-MSW-E

Policy Revision 2 (September 2002) PCW Revision February 29, 2008

Respondent R. J. Whitfield Case ID No. 35619

Reg. Ent. Reference No. RN105211775

Media [Statute] Municipal Solid Waste

Enf. Coordinator Dana Shuler

		LANGE WAS LANGE.	
Component	Number of  Written NOVs with same or similar violations as those in the current enforcement action	Inter Number Here	Adjust.
NOVs	(number of NOVs meeting criteria)	2	10%
-1	Other written NOVs	0	0%
	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	· . 0	0%
Orders	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission		0%
Judgments	1 o jontona j		0%
and Consen Decrees	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	<b>0</b>	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
Addits	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	Ö	0%
	Pleas	se Enter Yes or No	
	Environmental management systems in place for one year or more	No	0%
Other	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
Other	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%
	Adjustment P	ercentage (Su	ıbtotal 2) 🗌
eat Violator (S	ubtotal 3)	Alley sold of the	And place
N	O Adjustment P	ercentage (Su	ıbtotal 3)
npliance Histor	y Person Classification (Subtotal 7)		
Average I	Performer Adjustment Pe	ercentage (Su	ıbtotal 7) 🗌
npliance Histo	y Summary		April 200
Compliance History Notes	There are two NOVs for same or similar violations at the Site.	7. 300.1 - 24 4 5. 300.2	
	Total Adjustment Percentage	(Subtotals 2	2, 3, & 7)
~*************************************			

Screening D	<b>ate</b> 25-Mar-2008	***************************************	Docket	<b>No.</b> 2008-0494-MSW-E	PCW
Respond	ent R. J. Whitfield				Policy Revision 2 (September 2002)
Case ID I	<b>Vo.</b> 35619				PCW Revision February 29, 2008
Reg. Ent. Reference l	<b>No.</b> RN105211775				
Media [Statu	te] Municipal Solid	d Waste			
Enf. Coordina	<b>tor</b> Dana Shuler				
Violation Num	ber 1				•
Rule Cit	e(s)	30 Tex	. Admin. Code	§ 330.15(c)	
Violation Descrip	during a record	d review conducted of municipal solid v	on January 30 vaste, includin	n authorized facility, as docu , 2008. Specifically, approxing g farm equipment, approxima p metals were disposed of a	nately 350 ately 50
to its conversión arrest				Bas	se Penalty \$10,000
>> Environmental, Proper  Rele OR Ac Pote	ase Major tual	Harm Moderate Mi	nor K	Percent 10%	
GREWINE CO.	Lancia de la companya			Section 2011	Montage
>>Programmatic Matrix		196 196			-
<u>Falsificat</u>	ion Major	Moderate Mi	nor		American
REAL PROPERTY AND ADDRESS OF THE PROPERTY ADDRESS OF THE P		,		Percent 0%	Condition - Propriet
Matrix Notes Human				nt amounts of pollutants which preventions are environmental receptors.  Adjustment	\$9,000
\$ \$500 CANES \$ \$00 \$400 \$100 \$100 \$100 \$100 \$100 \$10		AND ALL ELEMENTS OF THE STATE O			
Westing the second seco					\$1,000
Violation Events	a errespondationer				The participant of the latest section of the
Number o	f Violation Events	1	55	Number of violation da	y <b>s</b>
	§ Soci		1	entante service de la constante de la constant	Notified Association
	daily	•			·
mark only with an		X		Violation Bas	se Penalty \$1,000
One qua	rterly event is reco		January 30, 20 reening date.	008 investigation date to the	March 25,
Economic Benefit (EB) fo	rthis violation			Statutory Limit Te	ISC
Fefim	ated EB Amount		\$370	Violation Final Per	nalty Total \$1,100
			,		
		This vio	lation Final A	ssessed Penalty (adjusted	<b>for limits)</b> \$1,100

Reg. Ent. Reference No.	RN105211775						
Media	Municipal Solid	Waste				Percent Interest	Years of
Violation No.	.1				Profesional Amagan		Depreciation
그 사람들이 살아 있다면 살아 살아 먹었다면 살아 살아 먹었다면 살아 없다면 살아 없었다면 살아요. 얼마 없었다면 살아 없었다면 살아 없었다면 살아요. 얼마 없었다면 살아 없었다면 살아 없었다면 살아 없었다면 살아요. 얼마 싶었다면 살아 싶었다면 살아요. 얼마 싶					The State of the S	5.0	<b></b>
	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amou
Item Description	No commas or \$,	rys in still on a many				<u>ម៉ែល៉ូកស់ ។ មានសម</u>	
Delayed Costs	and the second s		10/0 I			·	
Equipment				0,0	\$0	\$0	\$0
Buildings	11 J.MAN75 11 11 11			0.0	\$0	\$0	\$0
Other (as needed)	AND STREET	يصنب أحسيت	حطك كينتهك	0,0	\$0	\$0 \$0	\$0
Engineering/construction	Littlemanientiscom ta		وتصيف سنطنع فالمرابعات والأن	0.0	\$0 \$0		\$0 \$0
Land	ار برونونه هندن به دونوا ا	- in a contract process in a contract of the c	<del></del>	0.0	\$0	n/a n/a	\$0 \$0
Record Keeping System				0.0	\$0	n/a	\$0 \$0
Training/Sampling	\$9,450	30-Jan-2008	11-Nov-2008	0.0	\$370	n/a	\$370
Remediation/Disposal Permit Costs	\$9,450	30-3811-2000	11-1107-2000	0.0	\$0	n/a	\$0
Permit Costs	Carata de la caración						
Other (as needed)	Estimated cos	t to dispose of 350	cubic vards of mu	0.0 nicinal s	solid waste (\$27 pe	h/a er cubic vard). Calcu	\$0 lated from da
Notes for DELAYED costs		of th	e investigation to t	nicipal s he expe	solid waste (\$27 pe cted date of comp	er cubic ýard). Calcu Iliance.	lated from da
Notes for DELAYED costs  Avoided Costs		of th	e investigation to t	nicipal s he expe	solid waste (\$27 pe cted date of comp	er cubic ýard). Calcu lliance.	lated from da
Notes for DELAYED costs  Avoided Costs  Disposal		of th	e investigation to t	nicipal s he expe ntering	solid waste (\$27 pe cted date of comp item (except for \$0	er cubic yard). Calcu iliance. one-time avoided c	osts)
Notes for DELAYED costs  Avoided Costs  Disposal Personnel		of th	e investigation to t	nicipal s he expe ntering 0.0	solid waste (\$27 pe cted date of comp item (except for \$0 \$0	or cubic yard). Calcu llance. one-time avoided c	osts) \$0
Notes for DELAYED costs  Avoided Costs  Disposal  Personnel  inspection/Reporting/Sampling		of th	e investigation to t	nicipal s he expe ntering 0.0 0.0	solid waste (\$27 percent date of completed date of complete (\$20 percent for \$0 percent	one-time avoided c	osts) \$0 \$0
Notes for DELAYED costs  Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment		of th	e investigation to t	nicipal s he expe ntering 0.0 0.0 0.0	item (except for \$0 \$0 \$0 \$0	one-time avoided c	osts) \$0 \$0 \$0 \$0
Notes for DELAYED costs  Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment Financial Assurance [2]		of th	e investigation to t	nicipal s he expe ntering 0.0 0.0	solid waste (\$27 percent date of completed date of complete (\$20 percent for \$0 percent	one-time avoided c	osts) \$0 \$0
Notes for DELAYED costs  Avoided Costs Disposal Personnel Inspection/Reporting/Sampling Supplies/equipment		of th	e investigation to t	nicipal s he expe  ntering 0.0 0.0 0.0 0.0 0.0 0.0	item (except for \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0 \$0	one-time avoided c \$0 \$0 \$0 \$0 \$0 \$0 \$0	osts) \$0 \$0 \$0 \$0 \$0 \$0

# **Compliance History**

Customer	/Respondent/Owner-0	Operator:	CN603180381	WHITFIELD,	RJ	Classification	: AVERAGE	Rating: 5.00
Regulated	Entity:		RN105211775	HWY 77 NO	RTH OF ROSEBUD	Classification	: AVERAGE	Site Rating: 5.00
ID Numbe	r(s):							······································
Location:			EAST SIDE OF I		MILES NORTH OF T	HE Rating Date:	September 01 07	Repeat Violator: N
TCEQ Re	gion:		REGION 09 - WA	(CO				
Date Com	pliance History Prepa	ered:	March 27, 2008					
Agency D	ecision Requiring Cor	npliance History:	Enforcement				<del></del>	
Complian			March 25, 2003 t	o March 25, 200	8			
TCEQ Sta	iff Member to Contact	for Additional Infor	mation Regarding	his Compliance	History			
Name:	Dana Shuler				2) 239-2505			
			Site C	omnliance Hi	story Components			
1 Hootha	aita baan in aviatana	o and/or operation		•	. 10	•		
	esite been in existenc ere been a (known) ch	••	-					
Z. 1745 IIIE	ne been a (known) ch	ange in ownership	or the site during the	ie compliance pe	snod! No		* .	
3. If Yes,	who is the current own	ner?			N/A			
4. if Yes,	who was/were the pri	or owner(s)?			N/A	-		
5. When	did the change(s) in o	wnership occur?			N/A			
Compon	ents (Multimedia)	for the Site :						
A.			nents, and consent	decrees of the s	tate of Texas and the	federal government.		
	N/A							
B.	Any criminal convicti	ons of the state of	Texas and the fede	ral government.				
C	N/A Chronic excessive er	missions ovents						
C.		missions events.						
D.	N/A The approval dates of	of investigations (C	CEDS Inv. Track	No.)				
D.	1 05/11/2007	- , .	OCEDO IIIV. Track.	<b>vo.</b> )				
	2 11/01/2007	, ,						
	3 11/06/2007 4 02/14/2008	, ,						
E.	Written notices of vic		CEDS Inv. Track No	n )				
	Date: 07/13/	, , ,		,				
	Self Report?	NO (CORRES			Classification:	Moderate		
	Citation:		apter 26, SubChapt		)			
	Description:				municipal solid waste	into or adjacent to		
	Date: 07/16/							
	Self Report?	NO			Classification:	Moderate		
	Citation: Description:	Failure to ob	pter 330, SubChap tain a permit or oth nunicipal solid wast	er authorization f	from the commission,	authorizing the		
	Self Report?	NO			Classification:	Moderate		
	Citation:		pter 330, SubChap	ter A 330.15(a)				
	Description:	Failure to pre waters of the		zed discharge of	f municipal solid waste	into or adjacent to		
	Self Report?	NO			Classification:	Minor		
	Citation: Description:	Failure to ob	pter 328, SubChap tain a scrap tire sto than 500 used or s	rage site registra	ation from the executive ground.	re director, before		

F. Environmental audits.
N/A

G. Type of environmental management systems (EMSs).
N/A

H. Voluntary on-site compliance assessment dates.
N/A

I. Participation in a voluntary pollution reduction program.
N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

Policy Revision 2 (Sept	•	Calculatio	n Work	sheet (P	CW)	ebruary 29, 2008
TCFO	amber 2002)				F OW REVISION 1	sbraary 25, 2000
DATES Assigned	19-Feb-2008				T	
PCW	25-Mar-2008   Screeni	ng 25-Mar-2008	EPA Due			**************************************
RESPONDENT/FACILITY	INFORMATION	A STATE OF THE STA	775.647			
Respondent	R. J. Whitfield				<del></del>	
Reg. Ent. Ref. No.	RN105211775					
Facility/Site Region	9-Waco		Major/	Minor Source	Major	
CASE INFORMATION	<del>a</del>					
Enf./Case ID No.	35619	<u> Maria di Americania di Ameri</u>	No.	of Violations	1	
Docket No.	2008-0494-MSW-E			Order Type		
	Municipal Solid Waste		Ent	. Coordinator		
Multi-Media	::4 B#:-:	88	610,000	EC's Team	Enforcement Team 7	
Admin. Penalty \$ L	imit Minimum \$0	Maximum	\$10,000			
	Par	alty Calcula	ation Sec	tion		
		· · · · · · · · · · · · · · · · · · ·		HOH Walanta	nte atron	40.500
TOTAL BASE PENAL	TY (Sum of violation	n base penalti	es)		Subtotal 1	\$2,500
ADJUSTMENTS (+/-)	TO SUBTOTAL 1					
	ed by multiplying the Total Base	Penalty (Subtotal 1) b	y the indicated pe	centage.		
Compliance History	ıry	7%	Enhancement	Subt	otals 2, 3, & 7	\$175
	There was one NOV fo	r same or similar	violations and	one NOV for		
Notes		milar violations at				
					<u>.</u>	
Culpability	No No	0%	Enhancement		Subtotal 4	\$0
Notes	The Responden	t does not meet th	e culpability c	iteria	*	
NOIGS	The Responden	t does not most th	o odipubility of	noria.	·	
Good Faith Effort	to Comply	0%	Reduction		Subtotal 5	\$0
GOOD FAILIT ETIOTE		PRP/Settlement Offer			Oubtotal o	+-
Extraordinary	50,010.110.1					
Ordinary						
N/A	X (mark with )	()			1	
Notes	The Responden	t does not meet th	e good faith c	iteria.		
		0%	Enhancement*		Subtotal 6	\$0
	Total EB Amounts \$392		d at the Total EB	\$ Amount		
Approx. C	Cost of Compliance \$10,000					
SUM OF SUBTOTALS	\$ 1-7			1	inal Subtotal	\$2,675
			VICTORILLY I I I I DE		enge - Der Allerie e	
OTHER FACTORS AS	JUSTICE MAY REC	QUIRE	0%		Adjustment	\$0
Reduces or enhances the Final Su	ubtotal by the indicated percenta	ige.			7	
NI						
Notes						
L				Final Pe	nalty Amount	\$2,675
STATUTORY LIMIT A	DJUSTMENT			Final Asse	essed Penalty	\$2,675
				<b>1</b> ************************************	Service of the servic	
DEFERRAL			20%	Reduction	Adjustment	-\$535
Reduces the Final Assessed Pena	alty by the indicted percentage.	(∟nter number only; e.	g. 20 for 20% red	ucuon.)	7	
Notes	Deferral	offered for expedite	ed settlement			
NOTES	Doloital	crod for oxpodite	- Comomoni			
	<del></del>			• .	<b>-</b>	****
PAYABLE PENALTY						\$2,140

Screening Date 25-Mar-2008

Docket No. 2008-0494-MSW-E

PCW

Respondent R. J. Whitfield Case ID No. 35619

Policy Revision 2 (September 2002) PCW Revision February 29, 2008

Reg. Ent. Reference No. RN105211775

Media [Statute] Municipal Solid Waste
Enf. Coordinator Dana Shuler

Component	/ Site Enhancement (Subtotal 2) Number of	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	5%
	Other written NOVs	1	2%
	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
Orders	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission		0%
Judgments	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0 0	0%
and Consent Decrees	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government		0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)		0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
	Plea	se Enter Yes or No	
	Environmental management systems in place for one year or more	No	0%
Other	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
Oulei	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%
	Adjustment P	ercentage (Su	ıbtotal 2
Violator (Su	ibtotal 3)		1.22.641
No	Adjustment P	Percentage (Su	ıbtotal 3
iance History	Person Classification (Subtotal 7)		
Average P	erformer Adjustment P	ercentage (Su	ıbtotal 7
iance History	/ Summary	ron a terre di a pire.	· fuel (se)
Compliance		Sala Managara	
History	There was one NOV for same or similar violations and one NOV for dissimilar violations	at the Site.	

Scre	ening Date	25-Mar-2008	••••		Docket N	<b>lo.</b> 2008-049	4-MSW-E		PCW
	· <del>-</del>	R. J. Whitfield						Policy Re	evision 2 (September 2002)
0	Case ID No.	35619						PCW I	Revision February 29, 2008
Reg. Ent. Ref	erence No.	RN105211775							
Med	ia [Statute]	Municipal Solid	d Waste						
Enf. C	oordinator	Dana Shuler							
Viola	ation Number	1							
	Rule Cite(s)			30 Tex. Adr	nin. Code §	328.60(a)			
Violation	n Description	Failed to ob used tires on t 30, 2008. Spe	he ground, a	as document	ed during a	for storing mo record reviev ere being stor	v conducted (	on January	
							Ba	se Penalty	\$10,000
>> Environmental	, Property a Release Actual	Major	Health Ma Harm Moderate	trix Minor					
UK	Potential	<u> </u>				Percent	0%		
>>Programmatic I	Matrix	ENTER A PROPERTY OF	a River	Name of the	Destroyages				
->r rogrammauc i	Falsification	Major X	Moderate	Minor		Percent	25%		
union constitution	l <u> </u>	IL		1					
Matrix Notes			100% of the	e rule require	ement was	not met.		-	
and the complete	MARIE S	delega destru		mustanti.		Adjustmer	it	\$7,500	
7 / T. C.	00000000000000000000000000000000000000								\$2,500
The control of the co									Ψ2,300
Violation Events				and back		alle de la company	The Party of	and a second	
	Number of Vio	olation Events	. 1		55	Number	of violation da	ays	
	mark only one with an x	daily monthly quarterly semiannual annual single event	X				Violation Ba	se Penalty	\$2,500
	One quarter	ly event is reco	mmended fr	om the Janu 2008 screen	ary 30, 200 ing date.	8 investigatio	n date to the	March 25,	
Economic Benefit	t (EB) for th	is violation	eranicum (12.)		jar vedidi	Statuto	ry Limit To	est	
	Estimate	d EB Amount		\$3	92	Violat	ion Final Pe	nalty Total	\$2,675
				T1. 1		J D	16. /ad:4	for limital	\$2,675
		e e si successi i i produktiviti	nucaroladaysa, ves 64 a 5 as	inis violatio	n Final As	sessed Pena	ity (adjusted	ior iimits)	φ2,073

#### Economic Benefit Worksheet Respondent R. J. Whitfield Case ID No. 35619 Reg. Ent. Reference No. RN105211775 Percent Interest Depreciation Media Municipal Solid Waste Violation No. 1 5.0 Onetime Costs **EB Amount** Item Cost Date Required Final Date Yrs Interest Saved Item Description No commas or \$ 8 - 7 12 13 (4) MA 11 11 **Delayed Costs** Equipment \$0 \$0 \$0 \$0 \$0 Buildings 0.0 Other (as needed) 0,0 \$0 Engineering/construction 0.0 \$0 \$0 Land 0,0 \$0 n/a \$0 Record Keeping System 0.0 \$0 n/a \$0 Training/Sampling 0.0 n/a Remediation/Disposal 0.0 \$0 n/a Permit Costs 30-Jan-2008 Other (as needed) Estimated cost to register as a tire storage site. Calculated from date of the investigation to the expected date of Notes for DELAYED costs compliance. ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs) **Avoided Costs** \$0 \$0 Disposal \$0 \$0 0.0 Personnel 0.0 Inspection/Reporting/Sampling 0.0 \$0 \$0 \$0 Supplies/equipment 0.0 \$0 \$0 Financial Assurance [2] 0.0 \$0 \$0 ONE-TIME avoided costs [3] 0,0 Other (as needed) \$0 Notes for AVOIDED costs

TOTAL

\$392

\$10,000

Approx. Cost of Compliance

## **Compliance History**

Customer	/Respondent/C	)wner-Ope	erator:	CN603180381	WHITFIELD, R J		C	lassification:	AVERAGE	Rating: 5.0	00
Regulated				RN105211775	HWY 77 NORTH	OF ROSEBUD	C	lassification:	AVERAGE	Site Rating	g: 5.00
ID Numbe	er(s):	r					· · · · · · · · · · · · · · · · · · ·				
_ocation:	(-)			EAST SIDE OF H	HWY 77 E, THREE N	IILES NORTH O	FTHE F	Rating Date: \$	September 01 07	Repeat Vic	olator: NO
TCEQ Re	gion:			REGION 09 - WA	(CO			<del>*** ••••</del>			
Date Com	pliance History	/ Prepared	d:	March 27, 2008		-					
Agency D	ecision Requir	ing Compl	liance History:	Enforcement							
Complian	ce Period:			March 25, 2003 t	o March 25, 2008						
TCEQ Sta	aff Member to (	Contact fo	r Additional Info	rmation Regarding t	his Compliance Hist		•				
Name:	Dana :	Shuler		Ph	one: (512) 2	39-2505					
				Site C	ompliance Histo	ry Componen	ts				
1. Has the	e site been in e	xistence a	and/or operation	for the full five year	compliance period?	Yes	i,				
2. Has the	ere been a (kno	own) chan	ge in ownership	of the site during th	ne compliance period	d? No.					
3 If Yes	who is the curr	ent owner	?			N/A		·			,
	who was/were					N/A			-		
- Whan	did the change	v(c) in own	orehin occur?						1		
	· ·	. ,	•			N/A					,
	nents (Multir			ments and consent	decrees of the state	of Texas and the	e federal go	/ernment.			
Α.		ment Ord	ers, court juage	monts, and consone	dooroos or the otato	or roxad and an					
	N/A										
B.	Any criminal	conviction	s of the state of	Texas and the fede	ral government.						
	N/A										
C.	Chronic exce	ssive emi	ssions events.								
	N/A										
D.				CCEDS Inv. Track.	No.)						
		11/2007 01/2007	(558929) (569812)								
	3 11/	06/2007	(599788)						•		
		14/2008	(616534)	office of the N	- >						
E.			, , ,	CEDS Inv. Track. N	0.)						•
		07/13/20 eport?	007 (55892 NO	9)		Classification	n: Modera	ate	•		
	Citatio	•	The second secon	napter 26, SubChapt	ter A 26.121(a)(1)						
	Descr	iption:		apter 330, SubChap revent the unauthori e State.	ter A 330.15 zed discharge of mu	inicipal solid was	te into or ad	acent to			
	Date:	07/16/20							•		
			NO			Classification	n: Modera	ate			
٠	Citatio Descr		Failure to ol	apter 330, SubChap otain a permit or oth municipal solid wast	er authorization from	n the commission	n, authorizing	the .			
	Self R	eport?	NO	•		Classification	n: Modera	ate			
	Citatio Descr	on: iption:			iter A 330.15(a) ized discharge of mu	ınicipal solid was	te into or ad	jacent to			
	Self R	leport?	NO			Classification	n: Minor				
	Citatio Descr	on: iption:	Failure to o	apter 328, SubChap btain a scrap tire sto e than 500 used or	oter F 328.60(a) orage site registration scrap tires on the gro	n from the executound.	tive director,	before			

F. Environmental audits.
 N/A
 G. Type of environmental management systems (EMSs).
 N/A
 H. Voluntary on-site compliance assessment dates.
 N/A
 I. Participation in a voluntary pollution reduction program.
 N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§:	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
R. J. WHITFIELD	§	
RN105211775	§	ENVIRONMENTAL QUALITY

## AGREED ORDER DOCKET NO. 2008-0494-MSW-E

### I. JURISDICTION AND STIPULATIONS

At its \_\_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding R. J. Whitfield ("the Respondent") under the authority of Tex. Health & Safety Code ch. 361 and Tex. Water Code ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

- 1. The Respondent owns an unauthorized disposal and tire storage site located on the east side of Highway 77, three miles north of the light in Rosebud, Falls County, Texas (the "Site").
- 2. The Site involves or involved the management of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
- 3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
- 4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about February 20, 2008.
- 5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
- 6. An administrative penalty in the amount of Three Thousand Seven Hundred Seventy-Five Dollars (\$3,775) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Three Thousand Twenty Dollars (\$3,020) of the administrative penalty and Seven Hundred Fifty-Five Dollars (\$755) is deferred contingent upon

		•	
	·		

the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

- 7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
- 8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
- 9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
- 10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
- 11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

#### II. ALLEGATIONS

As owner and operator of the Site, the Respondent is alleged to have:

- 1. Failed to dispose of municipal solid waste at an authorized facility, in violation of 30 TEX. ADMIN. CODE § 330.15(c), as documented during a record review conducted on January 30, 2008. Specifically, approximately 350 cubic yards of municipal solid waste, including farm equipment, approximately 50 vehicles, construction debris, and assorted scrap metals were disposed of at the Site.
- 2. Failed to obtain a scrap tire storage registration for storing more than 500 scrap or used tires on the ground, in violation of 30 Tex. ADMIN. CODE § 328.60(a), as documented during a record review conducted on January 30, 2008. Specifically, approximately 1,000 tires were being stored on the ground at the Site.

### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

#### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: R. J. Whitfield, Docket No. 2008-0494-MSW-E" to:

Financial Administration Division, Revenues Section Attention: Cashier's Office, MC 214 Texas Commission on Environmental Quality P.O. Box 13088 Austin, Texas 78711-3088

- 2. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Immediately upon the effective date of this Agreed Order, cease accepting and/or disposing of any additional waste at the Site;
  - b. Within 15 days after the effective date of this Agreed Order, obtain a scrap tire storage registration or reduce the number of tires being stored on-site to 500 or less on the ground and/or 2,000 tires in enclosed and lockable containers, in accordance with 30 Tex. ADMIN. CODE §§ 328.56 and 328.60;
  - c. Within 60 days after the effective date of this Agreed Order, ensure that all unauthorized waste at the Site is removed and properly disposed of at an authorized facility; and
  - d. Within 75 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. through 2.c.

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

R. J. Whitfield DOCKET NO. 2008-0494-MSW-E Page 4

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Waste Section Manager
Waco Regional Office
Texas Commission on Environmental Quality
6801 Sanger Avenue, Suite 2500
Waco, Texas 76710-7826

- 3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
- 4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
- 5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
- 6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
- 7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
- 8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

The second second

en de la composition La composition de la La composition de la La composition de la

## SIGNATURE PAGE

## TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission	-
For the Executive Director	B/29/2008  Date
attached Agreed Order on behalf of the	stand the attached Agreed Order. I am authorized to agree to the entity indicated below my signature, and I do agree to the terms ther acknowledge that the TCEQ, in accepting payment for the such representation.
<ul> <li>timely pay the penalty amount, may result</li> <li>A negative impact on compliance</li> <li>Greater scrutiny of any permit age</li> <li>Referral of this case to the Attorney fees, or Increased penalties in any future</li> <li>Automatic referral to the Attorney</li> <li>TCEQ seeking other relief as automatic and the actorney</li> </ul>	e history; oplications submitted; orney General's Office for contempt, injunctive relief, additional or to a collection agency; enforcement actions; oy General's Office of any future enforcement actions; and
Signature Signature	5/14/18 Date
Name (Printed or typed) Authorized Representative of	Title

**Instructions**: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

· 19741/c.

e))kerel

Es Whitheld